



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2010 REGULAR SESSION

HOUSE BILL NO. 298

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The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Allen

AN ACT relating to the collection of property taxes and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 ➔ Section 1. KRS 134.010 is amended to read as follows:

2 As used in this chapter, unless the context requires otherwise:

3 (1) "Certificate of delinquency" means a tax claim on real property for taxes that:

4 (a) Remains unpaid on April 15 under the regular collection schedule, or three (3)
5 full months and fifteen (15) days from the date the taxes were due under an
6 alternative collection schedule as determined under KRS 134.015; and

7 (b) Has been filed with the county clerk pursuant to KRS 134.122;

8 (2) "Chief executive" means the elected head of the executive branch of government in
9 a city or county;

10 (3) "Commissioner" means the commissioner of the department;

11 (4) "County" includes counties, urban-county governments, charter county
12 governments, consolidated local governments, and unified local governments;

13 (5) "Department" means the Department of Revenue;

14 (6) "Governing body of a county" means the elected legislative body of a county;

15 (7) "Omitted property" means property described in KRS 132.290;

16 (8) "Personal property" includes every species and character of property, tangible and
17 intangible, other than real property;

18 (9) "Personal property certificate of delinquency" means a personal property tax claim
19 that:

20 (a) Remains unpaid as of April 15 under the regular collection schedule or three
21 (3) full months and fifteen (15) days from the date the taxes were due under an
22 alternative collection schedule as determined under KRS 134.015; and

23 (b) Has been filed with the county clerk pursuant to KRS 134.122;

24 (10) **"Priority certificate of delinquency" means a certificate of delinquency available**
25 **for sale that relates to a parcel of property against which a third-party purchaser**

already holds a certificate of delinquency from a prior tax year;

(11) "Protected list" means the list submitted to the county clerk by the county attorney of certificates of delinquency not eligible for sale pursuant to subsection (10) of Section 9 of this Act;

(12) (a) "Property taxes" means the ad valorem taxes due the state, a county, a county school district, or other taxing district;

(b) "Property taxes" also includes any other ad valorem taxes imposed by a governmental entity that are included on the same property tax bill as the levies listed in paragraph (a) of this subsection and that the sheriff is responsible for collecting either through a statutory requirement or agreement with a taxing district;

~~(13)~~~~(11)~~ "Real property" includes all lands within the state and improvements thereon;

~~(14)~~~~(12)~~ "Taxpayer" means the owner of property on the assessment date;

~~(15)~~~~(13)~~ "Tax claim" includes the taxes due on a tax bill, the penalties, costs, fees, interest, commissions, the lien provided in KRS 134.420 and any other expenses that have become or are by reason of the delinquent tax bill proper legal charges imposed by this chapter against the delinquent taxpayer at any given time; and

~~(16)~~~~(14)~~ "Third-party purchaser" means a purchaser of a certificate of delinquency.

➔Section 2. KRS 134.119 is amended to read as follows:

(1) (a) The sheriff shall be the collector of all state, county, county school district, and other taxing district property taxes unless the payment is directed by law to be made to some other person. The sheriff may contract to collect taxes on behalf of cities, independent school districts, or any other governmental unit with the authority to levy a property tax, if the enabling legislation authorizing imposition of the tax permits the governmental unit to contract for the performance of tax collection duties.

(b) The provisions of this chapter relating to the collection of property taxes shall

1 apply to other property tax collectors to the extent that the governing body of
 2 the city, school district, or taxing district appointing the tax collector has not
 3 adopted alternative tax collection processes and procedures.

4 (2) Payment to the sheriff may be provided by any commercially acceptable means. The
 5 sheriff may limit the acceptable methods of payment to those that ensure that
 6 payment cannot be reversed or nullified due to insufficient funds.

7 (3) (a) 1. The sheriff shall accept payment from the day on which the tax bills are
 8 mailed by the sheriff to the taxpayer as provided in KRS 133.220 and
 9 133.230, through the day on which the sheriff files the uncollected tax
 10 claims with the county clerk pursuant to KRS 134.122. During this time
 11 period, the sheriff may accept full or partial payment for any outstanding
 12 taxes or tax claims.

13 2. a. Any payments received by the sheriff by mail that:

14 i. Are received after the day on which uncollected tax claims
 15 are filed with the county clerk pursuant to KRS 134.122;

16 and

17 ii. Have a postmark that reflects a date on or before the day
 18 the uncollected tax claims are filed with the county clerk;
 19 shall be accepted and processed, and the amount due shall be the
 20 amount due immediately before the transfer of the uncollected
 21 tax claims by the sheriff to the county clerk.

22 b. Payments described in this subparagraph may be processed as
 23 agreed by the sheriff and county clerk.

24 c. Absent an agreement between the sheriff and the county clerk,
 25 the payment shall be accepted and processed by the sheriff.

26 d. If the sheriff accepts and processes the payment, the sheriff shall
 27 notify the county clerk, and the county clerk shall update his or

1 her records to reflect payment of the certificate of delinquency.

2 e. The sheriff and the county clerk shall reconcile all transactions
 3 addressed by this subparagraph by preparation of an addendum
 4 to the original reconciliation provided by the sheriff to the
 5 county clerk at the time of transfer. The addendum shall be
 6 prepared thirty (30) days after the original transfer, and shall be
 7 filed by the county clerk in the clerk's order book.

8 (b) All payments received by the sheriff shall be entered immediately by the
 9 sheriff on his or her books. Partial payments shall be credited against the total
 10 amount due and shall be apportioned by the sheriff among the entities
 11 included on the tax bill in the same proportion the amount due to each bears to
 12 the amount paid.

13 (c) The acceptance of any payment before the taxpayer's tax liability has been
 14 finally determined shall not imply that the payment was the correct amount
 15 due and shall not preclude the assessment and collection of additional taxes
 16 due or the refund of any part of the amount paid that is in excess of the
 17 amount determined to be due.

18 (d) The sheriff may accept payment of any tax or tax claim from any other person
 19 on behalf of the taxpayer. Any person making a payment on behalf of a
 20 taxpayer may, upon the written notarized request of the taxpayer, be treated as
 21 a transferee as provided in KRS 134.121.

22 (e) The sheriff may accept payment of any amount due on a delinquent tax claim
 23 from any of the persons described in subparagraphs 1., 2., and 3. of this
 24 paragraph without permission of the taxpayer. The person seeking to make the
 25 payment shall provide sufficient proof to the sheriff that he or she meets the
 26 requirements to pay under this paragraph. The sheriff shall be held harmless if
 27 he or she relies upon information provided and accepts payment from a person

not qualified to pay under this paragraph. Any person listed in subparagraph 1., 2., or 3. of this paragraph who makes full payment, may, upon written request to the sheriff, be treated as a transferee under KRS 134.121:

1. Any person holding a legal or equitable estate in the real or personal property upon which the delinquent taxes are due, other than a person whose only interest in the property is a lien resulting from ownership of a prior year certificate of delinquency;
2. A tenant or lawful occupant of real property, or a bailee or person in possession of any personal property upon which the delinquent taxes are due; or
3. Any person having a mortgage on real property or a security interest in real or personal property upon which the delinquent taxes are due.

(4) If, upon expiration of the five percent (5%) penalty period established by KRS 134.015(2)(c), the real property tax delinquencies of a sheriff exceed fifteen percent (15%) of the amount charged to the sheriff for collection, the department may require the sheriff to make additional reasonable collection efforts. If the sheriff fails to initiate additional reasonable collection efforts within fifteen (15) business days following notification from the department that such efforts shall be made, the department may assume responsibility for collecting the delinquent taxes. If the department assumes the responsibility for collecting delinquent taxes, the department shall receive the amounts that would otherwise be paid to the sheriff as fees or commissions for the collection of tax bills.

(5) In collecting delinquent taxes, the sheriff:

- (a) May distraint and sell personal property owned by a delinquent taxpayer in the amount necessary to satisfy the delinquent tax claim. The sale shall be made under execution for cash. If the personal property of the delinquent taxpayer within the county is not sufficient to satisfy the delinquent tax claim, the

1 sheriff may sell so much of the personal property as is available; and

2 (b) Shall retain any amounts that come into his or her possession payable to a
3 delinquent taxpayer, other than claims allowed for attendance as a witness,
4 and shall apply such amounts to the amount due on the delinquent tax claim.

5 (6) (a) As compensation for collecting property taxes the sheriff shall be paid the
6 following amounts, regardless of whether the amounts are collected by the
7 sheriff prior to filing the tax claims with the county clerk, or by the county
8 clerk after the tax claims become certificates of delinquency or personal
9 property certificates of delinquency:

10 1. From the Commonwealth the sheriff shall be paid four and one-quarter
11 percent (4.25%) of the amount collected on behalf of the
12 Commonwealth;

13 2. From counties the sheriff shall be paid four and one-quarter percent
14 (4.25%) of the amount collected on behalf of the counties;

15 3. The sheriff shall be compensated as provided by law or as negotiated if
16 negotiation is permitted by law, for collecting taxes on behalf of any
17 taxing district;

18 4. The sheriff shall be compensated as provided in KRS 160.500 for
19 collecting school district taxes; and

20 5. The sheriff shall be compensated as provided in KRS 91A.070 for
21 collecting taxes on behalf of any city.

22 (b) The sheriff shall include the amounts he or she is entitled to under the
23 provisions of paragraph (a) of this subsection as part of the delinquent tax
24 claims filed with the county clerk. The amount so included shall become a
25 part of the certificate of delinquency, and shall be paid by the person paying
26 the certificate of delinquency rather than the taxing jurisdiction for which the
27 taxes were collected.

(7) As additional compensation for the collection of delinquent taxes, the sheriff shall be entitled to an amount equal to ten percent (10%) of the total taxes due plus ten percent (10%) of the ten percent (10%) penalty for all delinquent taxes. This fee shall be added to the total amount due, and shall be paid by the person paying the tax claim if payment is made to the sheriff, or the certificate of delinquency or personal property certificate of delinquency if payment is made after the tax claim has been filed with the county clerk.

(8) If, in the process of collecting property taxes, the sheriff becomes aware of a new address for a taxpayer, the sheriff shall provide, on a form provided by the department, the information relating to the new address to the property valuation administrator, who shall update his or her records to reflect the new address.

➔Section 3. KRS 134.121 is amended to read as follows:

(1) (a) Upon receipt of a written request by a person who pays taxes on behalf of another to be treated as a transferee and verification that the request meets the requirements of KRS 134.119(3)(d) or (e), the sheriff shall issue a certificate of transfer in accordance with the provisions of this section.

(b) 1. Any person making a request and having taxes paid on his or her behalf under this section; and
2. The heirs and assigns of the person;
shall be estopped from claiming any irregularity in the tax or any proceedings related to the tax prior to the time of transfer.

(2) The sheriff shall give a certificate of transfer to the person making the payment. The certificate of transfer shall specify the:

- (a) Sheriff's name;
- (b) County where the property is located;
- (c) Address of the property;
- (d) Amount paid;

- 1 (e) Name of the person making the payment;
- 2 (f) Account the payment was credited to; and
- 3 (g) Person in whose name the property is listed as of January 1.
- 4 (3) A transferee shall be subrogated to the lien provided for in KRS 134.420, and shall
- 5 have the same rights and powers of enforcing collection as provided in KRS
- 6 134.546(2).
- 7 (4) The holder of a certificate of transfer shall have the certificate of transfer required
- 8 by subsection (2) of this section entered on the record of encumbrances on real
- 9 estate of the county in which the certificate was issued. Failure to enter the
- 10 certificate of transfer shall result in a loss of the lien upon the property, if the
- 11 property is transferred in good faith and for valuable consideration before recording
- 12 and without notice of the existence of the certificate of transfer. The county clerk
- 13 ~~shall~~~~may~~ charge a fee pursuant to KRS 64.012 for the recording and release of a
- 14 certificate of transfer.
- 15 (5) When a transferee has acquired a certificate of transfer that is for any reason invalid,
- 16 the state, county, city, or taxing district that received payment shall reimburse the
- 17 transferee by paying to him or her the amount of principal, interest, penalties, and
- 18 costs expended by him or her in the purchase.
- 19 (6) (a) Any person holding a lien upon property covered by a certificate of transfer
- 20 may, at any time during the life of the certificate if there has been no sale of
- 21 property for taxes, cancel the certificate by paying to the last recorded owner
- 22 of the certificate of transfer, or to his or her order, the amount of the certificate
- 23 and interest, at the tax interest rate established by KRS 131.183 from the date
- 24 of the certificate.
- 25 (b) If both real and personal property are covered by one (1) certificate of transfer,
- 26 the holder of a lien on any item of the property may obtain a cancellation of
- 27 the lien on the certificate of transfer against the property on which he or she

has a lien by paying to the last recorded owner of the certificate of transfer, before a tax sale under a certificate of delinquency, the amount applicable to the personal property included in the tax referred to by the certificate of transfer, plus the pro rata part of the face value of the certificate of transfer applicable to the property on which release is desired, plus interest on the amount of the certificate of transfer at the tax interest rate established by KRS 131.183.

(c) If two (2) or more items of property are included in one (1) certificate of transfer, the transferee may release any item or items. The release shall not affect the lien of the certificate of transfer on the remaining items, but shall be a release only to the extent of the amount of taxes applying to the parcel or parcels released.

(d) The provisions of law that apply to the rights of the owner of land sold for taxes by the state, county, city, or taxing district shall also apply to the owner's rights under sales of land made to satisfy a certificate of transfer, and the owner of the land or his or her heirs or assigns may redeem the property within the same length of time, and upon the same terms, as are provided by law for redeeming property sold for taxes.

➔Section 4. KRS 134.122 is amended to read as follows:

(1) (a) The sheriff shall, on April 15 or three (3) months and fifteen (15) days from the date the taxes were due under an alternative collection schedule, file all tax claims on real and personal property remaining in his or her possession with the county clerk, except that in a consolidated local government the sheriff shall have fourteen (14) working days from the required filing date to file the delinquent tax claims with the county clerk.

(b) The content of the information provided by the sheriff to the county clerk shall be determined by the department through the promulgation of an

1 administrative regulation.

2 (c) The county clerk shall acknowledge receipt of the tax claims by providing the
3 sheriff with a receipt in the format required by the department.

4 (d) If the sheriff fails to file the tax claims as required by this subsection, the
5 sheriff shall be liable on his or her bond for the aggregate amount of the tax
6 claims not filed with the clerk.

7 (2) (a) Upon filing with the county clerk, a real property tax claim shall become a
8 certificate of delinquency and a personal property tax claim shall become a
9 personal property certificate of delinquency, and the department, rather than
10 the sheriff, shall be responsible for the collection of all amounts due in
11 accordance with KRS 134.504.

12 (b) Certificates of delinquency and personal property certificates of delinquency
13 filed with the county clerk are owned by the taxing jurisdictions whose taxes
14 are included as part of the certificate of delinquency or personal property
15 certificate of delinquency.

16 (c) The clerk shall accept payment for certificates of delinquency as provided in
17 KRS 134.126 and 134.127.

18 (d) A certificate of delinquency or personal property certificate of delinquency
19 shall include:

- 20 1. The face amount of the tax due;
- 21 2. The ten percent (10%) penalty as provided in KRS 134.015;
- 22 3. The sheriff's commission and the ten percent (10%) sheriff's add-on as
23 provided in KRS 134.119; and
- 24 4. Any advertising costs incurred by the county as provided in KRS
25 134.128(5)(c)~~[134.119]~~.

26 (e) The certificate of delinquency or personal property certificate of delinquency
27 shall be prima facie evidence that:

- 1 1. The property represented by the certificate of delinquency or personal
- 2 property certificate of delinquency was subject to the taxes levied
- 3 thereon, and that the property was assessed as required by law;
- 4 2. The tax claim was valid and correct in all respects; and
- 5 3. The taxes were not paid any time before the establishment of the
- 6 certificate of delinquency or personal property certificate of delinquency.

7 **(3) If, in the process of collecting property taxes, the county clerk becomes aware of a**
 8 **new address for a taxpayer, the county clerk shall provide, using a form provided**
 9 **by the department, the information relating to the new address to the property**
 10 **valuation administrator, who shall update his or her records to reflect the new**
 11 **address.**

12 ➔Section 5. KRS 134.125 is amended to read as follows:

- 13 (1) A certificate of delinquency or personal property certificate of delinquency shall
- 14 bear simple interest at twelve percent (12%) per annum. **Interest shall initially be**
- 15 calculated **based** on the base amount established by KRS 134.122(2)(d). **Interest**
- 16 **shall be calculated in subsequent months on the outstanding balance of the base**
- 17 **amount**~~[from the date it is established]~~ until paid. A fraction of a month shall be
- 18 counted as an entire month.

- 19 (2) If a certificate of delinquency is paid by a third-party purchaser, the amount paid by
- 20 the third-party purchaser shall become the base amount upon which **simple** interest
- 21 is **initially** calculated. **Interest shall be calculated in subsequent months on the**
- 22 **outstanding balance of the base amount**~~[from the date of purchase]~~ until paid.

23 ➔Section 6. KRS 134.127 is amended to read as follows:

- 24 (1) (a) The following persons may pay to the county clerk at any time the total
- 25 amount due on a certificate of delinquency or personal property certificate of
- 26 delinquency that is owned by the taxing jurisdictions and in the possession of
- 27 the county clerk. It shall be the responsibility of the person seeking to pay the

1 county clerk to provide sufficient proof to the county clerk that he or she
2 meets the requirements to pay under this paragraph. The county clerk shall be
3 held harmless if he or she relies upon information provided and accepts
4 payment from a person not qualified to pay under this paragraph. The county
5 clerk may also accept partial payments from these persons:

- 6 1. The person primarily liable on the certificate of delinquency or personal
7 property certificate of delinquency, or a person paying on behalf of the
8 person primarily liable on the certificate, provided that a person paying
9 on behalf of the person primarily liable on the certificate under this
10 paragraph shall, notwithstanding the provisions of KRS 134.126(5), be
11 treated in the same manner as the person primarily liable on the
12 certificate and shall not be treated as an assignee or a transferee under
13 the provisions of this chapter; and
- 14 2. The following persons may pay a certificate of delinquency or personal
15 property certificate of delinquency that relates to the specific property in
16 which he or she has an interest, other than a person whose only interest
17 in the property is an interest resulting from a prior year certificate of
18 delinquency:
 - 19 a. Any person having a legal or equitable estate in real property
20 subject to a certificate of delinquency;
 - 21 b. A tenant or lawful occupant of real property, or a bailee or person
22 in possession of any personal property; or
 - 23 c. Any person having a mortgage on real property or a security
24 interest in real or personal property.

25 Upon full payment of a certificate of delinquency under this
26 subparagraph, KRS 134.126(5), (6), (7), and (8) shall apply regarding
27 the rights and interests of the person making the payment.

1 (b) Any other person may pay the total amount due on a certificate of delinquency
 2 that is owned by the taxing jurisdictions and in the possession of the county
 3 clerk to the county clerk after ninety (90) days have passed from the filing of
 4 the tax claims with the county clerk in accordance with KRS 134.128.

5 (c) 1. Only the persons listed in paragraph (a) of this subsection may pay a
 6 personal property certificate of delinquency~~[, or a certificate of~~
 7 ~~delinquency on unmined coal, oil, or gas reserves, or any other mineral~~
 8 ~~or energy resources that are assessed separately from the surface real~~
 9 ~~property pursuant to KRS 132.820]~~. Personal property certificates of
 10 delinquency ~~[and certificates of delinquency on unmined coal, oil, or gas~~
 11 ~~reserves]~~ shall not be included in any sale conducted under KRS
 12 134.128, and may not be purchased by any third party not specifically
 13 listed in paragraph (a) of this subsection.

14 2. A certificate of delinquency on property of a public service company
 15 that is centrally assessed, and that includes personal property and real
 16 property on the same certificate of delinquency, shall be treated for all
 17 purposes as a certificate of delinquency on real property.

18 (2) The duties of the county clerk with regard to payment of a certificate of delinquency
 19 or personal property certificate of delinquency by a person other than the person
 20 primarily liable on the certificate, are set forth in KRS 134.126(5) and (6).

21 (3) (a) The delinquent taxpayer or any person having a legal or equitable estate in the
 22 property covered by a certificate of delinquency may, at any time, pay the total
 23 amount due to a third-party purchaser of a certificate of delinquency. The
 24 third-party purchaser may also accept payment from any other person at any
 25 time.

26 (b) When full payment for a certificate of delinquency is made to a third-party
 27 purchaser, the third-party purchaser shall execute a release of the lien in

1 accordance with the provisions of KRS 382.365. The remedies included in
2 KRS 382.365 shall apply if the third-party purchaser fails to release the lien as
3 provided in KRS 382.365.

4 (c) Any person other than the person primarily liable on a certificate of
5 delinquency who pays a certificate of delinquency to a third-party purchaser
6 may, by paying a fee pursuant to KRS 64.012, have the county clerk record
7 the payment, and the recordation shall constitute an assignment thereof, and
8 KRS 134.126(6) and (8) shall apply. Failure of an assignee to record the
9 assignment shall render the claim of such person to any real estate represented
10 thereby inferior to the rights of other bona fide purchasers, payors, or
11 creditors.

12 (d) If the third-party purchaser fails to release the lien in accordance with the
13 provisions of KRS 382.365, or to surrender the certified copy of the certificate
14 of delinquency to the person making full payment within thirty (30) days after
15 payment has been tendered at the mailing address designated in the notice
16 required by KRS 134.490 or the mailing address of record in the county clerk's
17 office if no notice has been provided as required by KRS 134.490, the person
18 making the payment shall have all of the remedies provided in KRS 382.365.

19 (e) 1. A person entitled to make payment under this section who is having
20 difficulty locating the third-party purchaser of the certificate of
21 delinquency to make payment may send a registered letter addressed to
22 the third-party purchaser of record at the address reflected in the most
23 recent notice received from the third-party purchaser pursuant to KRS
24 134.490, or if no notice has been received, at the address reflected in the
25 records of the county clerk, indicating a desire to make payment. If the
26 letter is returned by mail unclaimed, or if the third-party purchaser fails
27 to respond in writing within thirty (30) days, the sender may take to the

1 county clerk as proof of mailing the certified mail receipts stamped by
2 the post office showing that the certified letter was mailed to the correct
3 address and the date it was mailed. If the letter was returned, the sender
4 shall also provide the returned letter to the clerk. The sender shall attest
5 under oath that the letter was mailed to the correct address, and if the
6 letter was not returned, the attestation shall also provide that the third-
7 party purchaser did not respond in writing within thirty (30) days of the
8 date the letter was mailed. The department shall develop attestation
9 forms for distribution to the county clerks that include a notice that any
10 false statement made in the attestation shall be punishable by law. The
11 form shall be a public record under KRS 519.010(2), subject to KRS
12 519.060(1)(a). The clerks' taking of such testimony shall be an official
13 proceeding under KRS 523.010(3).

- 14 2. Upon the acceptance of proof and attestation by the county clerk that the
15 person has failed in his or her attempt to contact the third-party
16 purchaser about making payment, the person may pay the full amount
17 due as reflected in the records maintained by the county clerk plus
18 applicable interest, and the county clerk shall make the necessary
19 assignment or release of the certificate of delinquency.
- 20 3. The county clerk shall deposit the money paid in an escrow account for
21 this specific purpose in a bank having its deposits insured with the
22 Federal Deposit Insurance Corporation. The name of the bank in which
23 the money is deposited shall be noted on the certificate of delinquency.
24 The county clerk may maintain one (1) escrow account for all deposits
25 made pursuant to this subparagraph and shall maintain a record
26 reflecting the amount due each owner of a certificate of delinquency.
- 27 4. The county clerk may deduct the sum of twenty dollars (\$20) as a fee for

1 such service.

2 5. The county clerk shall mail a copy of the certificate of delinquency by
3 regular mail to the third-party purchaser of record at the address on the
4 certificate of delinquency.

5 6. If any county clerk fails to pay to the person entitled thereto, upon
6 written demand clearly identified as a demand for payment, the money
7 received in payment of a certificate of delinquency, the county clerk and
8 the county clerk's sureties shall be liable for the amount of the payment
9 and twenty percent (20%) interest thereon annually from the fifteenth
10 day after the time the county clerk received the written demand until
11 paid.

12 (4) Copies of the records provided for in this section and KRS 134.126, when certified
13 by the county clerk, shall be evidence of the facts stated in them in all the courts of
14 this state.

15 ➔Section 7. KRS 134.128 is amended to read as follows:

16 (1) The sale of certificates of delinquency by county clerks to persons other than those
17 listed in KRS 134.127(1)(a) shall be conducted in accordance with the provisions of
18 this section.

19 (2) The department shall promulgate administrative regulations to establish a process
20 for the purchase and sale of certificates of delinquency to third parties. The process
21 developed by the department shall:

22 (a) Establish an annual statewide schedule for the sale of certificates of
23 delinquency in each county. The schedule shall be published on the
24 department's Web site at least ten (10) days prior to the first sale. The sale in
25 each county shall be administered by the county clerk and shall be scheduled
26 at least ninety (90) days but not more than one hundred thirty-five (135) days
27 after the unpaid tax claims are filed by the sheriff with the county clerk. The

1 department may stagger the schedule so that sales are conducted on different
2 dates and times in different counties;

3 (b) Except as provided in KRS 134.127(1)(a), prohibit the payment of any newly
4 filed certificates of delinquency by a third party prior to the scheduled annual
5 sale of certificates of delinquency for that year for that county;

6 (c) Prohibit the payment of any certificates of delinquency;

7 1. ~~[known to be]~~Involved in *bankruptcy litigation in which the county*
8 *attorney or department has filed a claim;*

9 2. *Involved in other* litigation *initiated by the county attorney or the*
10 *department, or in which the county attorney or department responds*
11 *or files a claim; or*

12 3. *Under*~~[or for which]~~ a payment plan *that* has been agreed to by the
13 taxpayer and the county attorney or the department, and on which the
14 payment agreement is in good standing;

15 (d) Establish a process to be used by county clerks in determining the order in
16 which interested third-party purchasers may select and pay available
17 certificates of delinquency *at the annual sale*. The process shall, at a
18 minimum:

19 1. Be uniform in all counties to the extent practicable;

20 2. Establish a process, if there is more than one (1) purchaser registered to
21 purchase certificates of delinquency at the sale, that allows all interested
22 purchasers an opportunity to purchase certificates of delinquency on an
23 equitable basis. The sale shall not be structured in such a manner to
24 allow one (1) third party to purchase all of the certificates of delinquency
25 if there are other properly registered third parties that are also interested
26 in purchasing certificates of delinquency;

27 3. Establish fairness for all participants by prohibiting the participation of

multiple related entities, or multiple individuals representing related interests as separate entities in the selection process at an annual sale. The department shall define "related entities" and "related interests" as part of the regulatory process; and

4. Establish a process to be used by county clerks in identifying, verifying, and selling priority certificates of delinquency. The process shall:

a. Require third-party purchasers to submit a list of priority certificates of delinquency to the county clerk up to ten (10) days before the annual sale so that the clerk may identify and allocate priority certificates of delinquency to third-party purchasers prior to the annual sale;

b. Require that all priority certificates of delinquency allocated to a third-party purchaser prior to the annual sale be removed from the annual sale;

c. Allow any third-party purchaser holding a certificate of delinquency on a parcel of property from a prior year to submit a priority list and purchase any priority certificates of delinquency to which the third-party purchaser is entitled, notwithstanding that the third-party purchaser may be related to another third-party purchaser participating in the sale; and

d. Give priority to the third-party purchaser holding a certificate of delinquency from the most recent tax year ~~{Allow any person holding a certificate of delinquency from a prior year to pay a certificate of delinquency on the same property for the current year}if more than one (1) third party holds an outstanding certificate of delinquency on a parcel of property[, the person~~

1 ~~holding a certificate of delinquency from the most recent tax year~~
 2 ~~shall be given preference~~];

3 (e) Require all potential participants in the sale to register at least one (1) week in
 4 advance with the county clerk;

5 (f) Require a review of the list of registered participants, either by the county
 6 clerk or the department, prior to the sale to ensure that:

7 1. All registered participants seeking to pay multiple certificates of
 8 delinquency are properly registered with the department as required by
 9 KRS 134.129; and

10 2. No registered participants or related entities or related interests
 11 prohibited from separate participation in the annual sale pursuant to the
 12 provisions of paragraph (d)3. of this subsection and the administrative
 13 regulations promulgated thereunder have separately registered to
 14 participate in the annual sale;

15 (g) Establish advance deposit requirements for registered participants based upon
 16 the maximum amount the registered participant may pay for desired
 17 certificates of delinquency;

18 (h) Establish a registration fee to be paid to the clerk upon registration for a sale.
 19 The registration fee paid to each county shall not exceed two hundred fifty
 20 dollars (\$250) and may be tiered;

21 (i) Establish payment requirements, which may include nullification of the
 22 payment and forfeiture of the advance deposit if a third-party purchaser fails
 23 to produce full payment within the specified time; and

24 (j) Establish payment methods.

25 (3) Any person who, in any calendar year:

26 (a) Pays or plans to pay five (5) or more certificates of delinquency statewide;

27 (b) Pays or plans to pay three (3) or more certificates of delinquency in any

1 county; or

2 (c) Invests or plans to invest more than ten thousand dollars (\$10,000) in the
3 payment of certificates of delinquency on a statewide basis in any calendar
4 year;

5 shall register with the department annually as provided in KRS 134.129.

6 (4) The department shall be responsible for monitoring the sale of certificates of
7 delinquency.

8 (5) (a) At least thirty (30) but not more than forty-five (45) days before the scheduled
9 sale date, the county clerk shall cause a notice to be published in accordance
10 with the provisions of KRS Chapter 424. The notice shall list by property
11 owner, property address, and if available, parcel number or lot number, all
12 certificates of delinquency available for sale. The notice shall provide the date,
13 time, and location of the sale. In addition, the notice shall list, in a separate
14 section, all personal property certificates of delinquency held by the county
15 clerk.

16 (b) As compensation for advertising the sale, the county clerk shall receive five
17 dollars (\$5) for each certificate of delinquency and personal property
18 certificate of delinquency advertised. The fee shall be added to the amount of
19 the certificate of delinquency or personal property certificate of delinquency
20 and shall be paid by the person paying the certificate of delinquency or
21 personal property certificate of delinquency.

22 (c) The cost of placing the advertisement shall be paid by the county. The cost
23 shall be added to the amount of the certificate of delinquency or personal
24 property certificate of delinquency and shall be paid by the person paying the
25 certificate of delinquency or personal property certificate of delinquency.
26 The department shall establish a formula that may be used by counties in
27 allocating the advertising costs among the delinquent tax claims. The formula

1 shall take into account that a percentage of delinquent tax claims remains
2 unpaid.

- 3 (6) Any certificate of delinquency not paid at the annual sale, not subject to a payment
4 plan with the department or county attorney, and not known to be in litigation~~[, and~~
5 ~~not related to unmined coal, oil, and gas reserves]~~ may be paid to the county clerk at
6 any time by any person after the sale, provided that any person required by KRS
7 134.129 to register with the department shall hold a current certificate of
8 registration at the time of purchase.

9 ➔ Section 8. KRS 134.490 is amended to read as follows:

- 10 (1) Within fifty (50) days after the delivery of a certificate of delinquency by the clerk
11 to a third-party purchaser, the third-party purchaser shall send to the delinquent
12 taxpayer by first-class mail with proof of mailing, a notice informing the delinquent
13 taxpayer that the certificate of delinquency has been purchased by the third-party
14 purchaser. The notice shall include the information required by subsection (3) of
15 this section.
- 16 (2) Anytime after the expiration of the one (1) year tolling period established by KRS
17 134.546, the third-party purchaser may institute an action to collect the amount due
18 on a certificate of delinquency. At least forty-five (45) days before instituting a legal
19 action, the third-party purchaser shall send to the taxpayer by first-class mail with
20 proof of mailing, a notice informing the taxpayer that enforcement action will be
21 taken. This notice shall also include the information required by subsection (3) of
22 this section.
- 23 (3) (a) 1. For certificates of delinquency for all property except property
24 described in paragraph (b) of this subsection, third-party purchasers or
25 their designees shall obtain from the office of the property valuation
26 administrator of the county in which the real property is located the most
27 recent address for the property owner.

- 1 2. To obtain information from the office of the property valuation
2 administrator, the third-party purchaser shall submit a list of addresses,
3 map identification numbers, or parcel numbers for which updated
4 information is requested to the property valuation administrator, who
5 shall:
 - 6 a. Update his or her records with regard to the properties for which
7 information is requested; and
 - 8 b. Provide the updated information to the third-party purchaser within
9 ten (10) days.
- 10 3. For this service, the property valuation administrator may charge a fee
11 not to exceed two dollars (\$2) for each address provided.
- 12 4. Except as provided in subparagraph 5. of this paragraph, the third-party
13 purchaser shall send the notices required by subsections (1) and (2) of
14 this section to the address provided by the property valuation
15 administrator.
- 16 5. If, due to insufficient staffing, the property valuation administrator is
17 unable to provide the requested information to the third-party purchaser
18 within ten (10) days of submission, the property valuation administrator
19 shall immediately notify the third-party purchaser, and the third-party
20 purchaser may send the notices required by subsections (1) and (2) of
21 this section to the address reflected in the public records of the property
22 valuation administrator.
- 23 ~~6. Any notices sent pursuant to subsections (1) and (2) of this section that~~
24 ~~are returned as undeliverable shall be re-sent by first class mail with~~
25 ~~proof of mailing addressed to "Occupant" at the address of the property~~
26 ~~that is the subject of the certificate of delinquency. These notices shall~~
27 ~~be sent within ten (10) days of receipt of the returned notice.~~

1 ~~7. The third-party purchaser shall maintain complete and accurate records~~
 2 ~~of all notices sent pursuant to this section.]~~

3 (b) 1. For certificates of delinquency relating to unmined coal, oil, or gas
 4 reserves or any other mineral or energy resources assessed separately
 5 from the surface real property pursuant to KRS 132.820, third-party
 6 purchasers or their designees shall obtain from the department the
 7 most recent address for the property owner.

8 2. To obtain information about a particular property, the third-party
 9 purchaser shall submit to the department a list of addresses, map
 10 identification numbers, parcel numbers, and any other information
 11 the department may require. The department shall:

12 a. Update its records with regard to the properties for which
 13 information is requested; and

14 b. Provide the updated information to the third-party purchaser
 15 within ten (10) business days.

16 3. For this service, the department may charge a fee not to exceed two
 17 dollars (\$2) for each address provided.

18 4. The third-party purchaser shall send the notices required by
 19 subsections (1) and (2) of this section to the address provided by the
 20 department.

21 (c) 1. The third-party purchaser shall submit to the department a copy of
 22 any notice sent pursuant to subsections (1) and (2) of this section and
 23 returned as undeliverable within ten (10) days of receipt of the
 24 returned notice.

25 2. The department shall attempt to obtain an updated address for the
 26 owner of the property subject to the certificate of delinquency from the
 27 individual or entity filing the property tax return for the property.

1 **3. The individual or entity filing the property tax return shall provide an**
 2 **address of the property owner upon request of the department.**

3 **4. The department shall provide any updated address information to the**
 4 **third-party purchaser.**

5 **5. If updated information is provided, the notices sent pursuant to**
 6 **subsections (1) and (2) of this section shall be re-sent by first-class**
 7 **mail with proof of mailing to the updated address of the owner within**
 8 **ten (10) days of the receipt of an updated address from the department.**

9 **(d) The third-party purchaser shall maintain complete and accurate records of**
 10 **all notices sent pursuant to this section.**

11 **(e)** The notices required by this section shall include the following information:

- 12 1. A statement that the certificate of delinquency is a lien of record against
 13 the property for which delinquent taxes are owed;
- 14 2. A statement that the certificate bears interest at the rate provided in KRS
 15 134.125;
- 16 3. A statement that if the certificate is not paid, it will be subject to
 17 collection as provided by law, **and that collection actions may include**
 18 **foreclosure.** The notice required by subsection (2) of this section shall
 19 also include a statement of the intent to institute legal action to collect
 20 the amount due;
- 21 4. A complete listing of the amount due, as of the date of the notice,
 22 broken down as follows:
 - 23 a. The purchase price of the certificate of delinquency;
 - 24 b. Interest accrued subsequent to the purchase of the certificate of
 25 delinquency; and
 - 26 c. Fees imposed by the third-party purchaser; and
- 27 5. Information, in a format and with content as determined by the

department, detailing the provisions of the law relating to third-party purchaser fees and charges.

~~(2)(e)~~ In addition, the notice shall provide the following information to the taxpayer:

1. The legal name of the third-party purchaser;
2. The third-party purchaser's physical address;
3. The third-party purchaser's mailing address for payments, if different from the physical address; and
4. The third-party purchaser's telephone number.

If the information required by this paragraph changes, the third-party purchaser shall, within thirty (30) days of the change becoming effective, send a notice to each taxpayer by first-class mail with proof of mailing with the corrected information. The third-party purchaser shall also update contact information included in the records of the county clerk within ten (10) days of the change becoming effective. Failure to send the original notice or any correction notices shall result in the suspension of the accrual of all interest and any fees incurred by the third-party purchaser after that date until proper notice is given as required by this subsection.

(4) If a person entitled to pay a certificate of delinquency to a third-party purchaser makes payment on the certificate of delinquency to the county clerk under the conditions described in KRS 134.127(3)(d), the payment shall constitute payment in full, and no other amounts may be collected by the third-party purchaser from the person.

(5) A third-party purchaser may offer an installment payment plan to a taxpayer. *If an installment payment plan is offered, the third-party purchaser shall not charge, assess, or collect from the taxpayer any fees, charges, interest, or other amounts that exceed the fees, interest, or other amounts expressly authorized by this*

chapter to be charged, assessed, or collected. The department may establish additional terms and conditions for installment payment plans~~[under the terms and conditions established by the department]~~ in an administrative regulation.

(6) Any person to whom a third-party purchaser transfers or assigns a certificate of delinquency shall be considered a third-party purchaser under this chapter.

➔Section 9. KRS 134.504 is amended to read as follows:

(1) The department shall be responsible for the collection of certificates of delinquency and personal property certificates of delinquency. The provisions of this section relating to certificates of delinquency shall also apply to personal property certificates of delinquency unless otherwise specifically noted. The department shall offer the collection duties related to certificates of delinquency and personal property certificates of delinquency to the county attorney in each county, unless the department determines that a county attorney has previously failed to perform collection duties in a reasonable and acceptable manner.

(2) Any county attorney desiring to perform the collection duties shall enter into a contract with the department on an annual basis.

(3) The terms of the contract shall specify the duties to be undertaken by the county attorney, which shall include, at a minimum, the duties set forth in subsection (4) of this section. The terms of the contract shall also provide that, if the county attorney fails to perform the duties required by the contract during the contract period, the department may assume all collection responsibilities.

(4) The following duties shall be performed by the department or the county attorney, as the case may be, with regard to each certificate of delinquency:

(a) Within thirty (30) days after the establishment of a certificate of delinquency, the county attorney or the department shall mail a notice by regular mail to the owner of record on the assessment date at the address on the records of the property valuation administrator, or to the in-care-of address if an in-care-of

1 address is provided as required by subsection (5) of this section. The notice
2 shall:

- 3 1. Include the name, address, and telephone number of a contact person in
4 the county attorney's office or the department, as the case may be;
- 5 2. Advise that:
 - 6 a. The certificate of delinquency is a lien of record against the
7 property on which the taxes are due;
 - 8 b. The amounts due are a personal obligation of the taxpayer on the
9 assessment date; and
 - 10 c. The certificate bears interest at the rate of twelve percent (12%)
11 and, if not paid, will be subject to collection by the county attorney
12 or the department as provided by law;
- 13 3. Include the total amount due as of the date of the notice;
- 14 4. Advise that anytime after ninety (90) days from the creation of the
15 certificate of delinquency, the certificate of delinquency may be paid by
16 a third-party purchaser and, that if so paid, the certificate of delinquency
17 will be subject to collection by the third-party purchaser as provided by
18 law. The notice shall also advise that a third-party purchaser may impose
19 substantial additional administrative costs and fees associated with
20 collection in addition to the amount due on the certificate of
21 delinquency, and that collection actions may include foreclosure. This
22 provision shall not be included in notices sent for personal property
23 certificates of delinquency~~], or certificates of delinquency on unmined~~
24 ~~coal, oil or gas reserves, or any other mineral or energy resources that~~
25 ~~are assessed separately from the surface real property pursuant to KRS~~
26 ~~132.820]; and~~
- 27 5. Advise that the taxpayer may qualify for a payment plan with the county

1 attorney or the department, if the taxpayer meets the requirements
 2 established by the county attorney or the department, and if terms are
 3 agreed to prior to the date of the sale.

4 (b) The county attorney or the department shall file in the office of the county
 5 clerk a list of the names and addresses to which the thirty (30) day notice was
 6 mailed along with a certificate attesting that the notices were mailed in
 7 accordance with the requirements of this section.

8 (c) 1. All thirty (30) day notices returned as undeliverable shall be submitted
 9 by the county attorney or department to the property valuation
 10 administrator, and a list of the returned notices shall be filed with the
 11 county clerk, who shall record the list in the order book of the county.

12 2. The property valuation administrator shall attempt to correct inadequate
 13 or erroneous addresses and, if property has been transferred, shall
 14 determine the new owner, current mailing address, and in-care-of
 15 address, if any, as provided in KRS 382.135.

16 3. The property valuation administrator shall return the notices with the
 17 corrected information to the county attorney or the department within
 18 twenty (20) days of receipt.

19 4. Upon receipt of the new information from the property valuation
 20 administrator, the county attorney or the department shall resend the
 21 notice required by paragraph (a) of this subsection using the updated
 22 information.

23 (d) 1. At least twenty (20) days after the mailing of the thirty (30) day notice
 24 required by paragraph (a) of this subsection, but within sixty (60) days
 25 of the establishment of a certificate of delinquency, the county attorney
 26 or department shall send a second notice, by regular mail, to owners of
 27 record whose tax bills remain delinquent, or to the in-care-of addresses

1 or corrected address, if information regarding a new property owner has
 2 been received by the county attorney or the department under the
 3 provisions of paragraph (c) of this subsection. The notice shall include,
 4 at a minimum, the following information:

5 a. The name, address, and telephone number of a contact person in
 6 the county attorney's office or the department, as the case may be;

7 b. A statement that a sale of tax claims will be held by the county
 8 clerk on the date established by the department for the sale. The
 9 text of the statement shall include the actual sale date, as well as a
 10 statement noting that the certificate of delinquency may be paid by
 11 a third-party purchaser at the sale, and if the certificate of
 12 delinquency is paid by a third-party purchaser, it will be subject to
 13 collection by the third-party purchaser as provided by law,~~[-and]~~
 14 that significant additional collection fees will be imposed by the
 15 third-party purchaser, and that collection actions may include
 16 foreclosure. This statement shall not be included in notices sent to
 17 owners of property subject to a personal property certificate of
 18 delinquency~~[-, or certificates of delinquency on unmined coal, oil or~~
 19 ~~gas reserves, or any other mineral or energy resources that are~~
 20 ~~assessed separately from the surface real property pursuant to KRS~~
 21 ~~132.820]; and~~

22 c. A statement that the taxpayer may qualify for a payment plan with
 23 the county attorney or the department, if the taxpayer meets the
 24 requirements established by the county attorney or the department
 25 and if terms are agreed to prior to the date of the sale.

26 2. The county attorney or the department shall file in the office of the
 27 county clerk a list of the names and addresses to which the sixty (60) day

1 notice was mailed, along with a certificate attesting that the notices were
 2 mailed in accordance with the requirements of this section.

3 3. If the notice required by paragraph (c) of this subsection is returned as
 4 undeliverable, and the property valuation administrator is not able to
 5 provide a corrected or updated address, the county attorney or the
 6 department shall address the sixty (60) day notice to "Occupant" and
 7 shall mail the notice to the address of the property to which the
 8 certificate of delinquency applies.

9 (e) The county attorney or the department shall deliver to the property valuation
 10 administrator, at the same time the notice required by paragraph (d) of this
 11 subsection is sent, a list of the owners whose tax bills remain delinquent. The
 12 property valuation administrator shall review this list in accordance with KRS
 13 132.220 to establish that the properties on the list can be identified and
 14 physically located.

15 (f) Anytime after the expiration of the one (1) year tolling period established by
 16 KRS 134.546, the county attorney or department may institute an action to
 17 collect the amount due on a certificate of delinquency owned by the taxing
 18 jurisdictions and in the possession of the county clerk. At least forty-five (45)
 19 days before instituting a legal action, the county attorney or department shall
 20 send, by regular mail, a notice of intent to initiate legal action to enforce the
 21 lien. The notice shall be sent to the owner of record of the property or to the
 22 in-care-of address or corrected address if either has been provided pursuant to
 23 this section.

24 (5) If property subject to a certificate of delinquency has been transferred in any year
 25 after the assessment date, the property valuation administrator shall determine the
 26 in-care-of address supplied in the deed pursuant to KRS 382.135 and shall provide
 27 that information to the county attorney or the department.

- 1 (6) (a) Failure of the county attorney or the department to mail the notices required in
2 subsection (4) of this section shall not affect the validity of the claim of the
3 state, county, school district, and taxing district. However, the county attorney
4 or the department shall not receive any compensation, commission, or
5 payment related to any certificate of delinquency for which the notices
6 required by the provisions of subsection (4) of this section are not sent.
- 7 (b) For each notice mailed, one dollar (\$1) shall be added to the amount of the
8 certificate of delinquency, to offset the cost of mailing, and, upon collection,
9 the county attorney or the department shall be paid such amounts as
10 reimbursement for mailing costs.
- 11 (7) (a) As compensation for the collection duties performed pursuant to a contract
12 with the department, a county attorney shall be paid twenty percent (20%) of
13 the amount due each taxing unit during the contract period, whether the
14 amount is paid voluntarily, through sale, or under court order, and whether the
15 amount is paid to the county clerk or the county attorney. The fee for the
16 county attorney shall be added to the amount of the certificate of delinquency
17 and shall be paid by the person paying the certificate of delinquency.
- 18 (b) If payment in full is voluntarily made by the taxpayer to the county attorney or
19 county clerk within five (5) days of the filing of the tax claim with the county
20 clerk, the county attorney fee shall be waived.
- 21 (c) If a county attorney files a court action or files a cross-claim, the county
22 attorney shall be paid an additional fee of thirteen percent (13%) of the
23 amount of the certificate of delinquency and shall be reimbursed for costs
24 incident to the court action. The additional fee and costs incident to the
25 litigation shall be added to the certificate of delinquency and shall be paid by
26 the person paying the certificate of delinquency.
- 27 (d) If more than one (1) county attorney renders necessary services to collect on a

1 certificate of delinquency, the county attorney serving the last notice or
 2 rendering the last substantial service preceding collection shall be entitled to
 3 the fee.

4 (8) (a) The county attorney shall establish a system to accept installment payments
 5 from delinquent taxpayers. The county attorney may, during the contract
 6 period, enter into an agreement with a delinquent taxpayer to accept
 7 installment payments on the certificates of delinquency. The agreement shall
 8 not waive the county attorney's right to initiate court action or other authorized
 9 collection activities if the taxpayer does not make payments in accordance
 10 with the agreement.

11 (b) The county attorney may, upon written request of the taxpayer for good cause
 12 and with agreement of the affected taxing jurisdiction or fee recipient, waive
 13 or reduce fees and penalties that are part of a certificate of delinquency during
 14 settlement or negotiation with a taxpayer in accordance with guidance
 15 provided by the department.

16 (9) Any action by the county attorney authorized by this chapter shall be filed on
 17 relation of the commissioner. A copy of any judgment obtained by the county
 18 attorney shall be sent to the department.

19 (10) (a) The county attorney shall notify the county clerk and the department of the
 20 filing of a suit at the time the suit is filed and of payment agreements at the
 21 time such agreements are entered into. The county clerk shall note on the
 22 certificate of delinquency the filing of the lawsuit or the existence of the
 23 payment agreement, and these certificates of delinquency shall not be
 24 available for purchase or payment by a third-party purchaser.

25 (b) The county attorney shall provide to the county clerk at least ten (10) days
 26 but not more than twenty (20) days prior to the annual sale date for the
 27 county established pursuant to Section 7 of this Act, a protected list of

current year certificates of delinquency that are:

- 1. Under a payment plan with the county attorney on which payments are current;**
- 2. Involved in litigation initiated by the county attorney or in which the county attorney responds or files an answer; and**
- 3. Involved in bankruptcy litigation in which the county attorney has filed a claim.**

The list shall include sufficient detail for the county clerk to accurately identify the property.

(c) The county attorney shall notify the county clerk of the failure of any payment agreement and, upon notification to the clerk, the certificate of delinquency shall be available for purchase.

(11) The department may make its delinquent tax collection databases and other technical resources, including but not limited to tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the department to protect taxpayer confidentiality, to ensure database integrity, or to address the concerns of the department.

(12) (a) If a county attorney chooses not to contract for collection duties, or if a county attorney fails to perform the duties required by the contract, the department shall assume responsibility for all uncollected certificates of delinquency and personal property certificates of delinquency, including, at the option of the department, those with pending court action or for which the county attorney has entered into an installment payment agreement.

(b) If the department assumes or retains responsibility for the collection of certificates of delinquency and personal property certificates of delinquency, the twenty percent (20%) fee that would have been paid to the county attorney

under subsection (7) of this section, and any other fees or costs established by this section for the county attorney shall be paid to the department for deposit in the delinquent tax fund provided for under KRS 134.552.

➔Section 10. KRS 134.546 is amended to read as follows:

(1) Any action to collect any amount due on a certificate of delinquency or personal property certificate of delinquency may be brought at any time after the passage of one (1) year from the date the taxes became delinquent, and shall be brought within eleven (11) years of the date when the taxes became delinquent.

(2) A third-party purchaser may:

(a) Institute an action against the delinquent taxpayer to collect the amount of the certificate of delinquency and any other certificates of delinquency subsequently issued to the same third-party purchaser against the same delinquent, and shall have all the remedies available for the enforcement of a debt;

(b) Institute an action to enforce the lien provided in KRS 134.420, represented by the certificate of delinquency and those certificates subsequently held by the same third-party purchaser against the same delinquent or property; or

(c) Institute one (1) action including both types of actions mentioned in paragraphs (a) and (b) of this subsection, and the joinder of actions shall not be defeated if the delinquent taxpayer has disposed of any property covered by the lien, but the purchaser of the property shall be made a defendant if the judgment is to affect his or her interest in the property, and as between them the delinquent taxpayer shall be responsible.

(3) If the state, county, or a taxing district is the owner of a certificate of delinquency or personal property certificate of delinquency, it shall have, in addition to the remedies provided in subsection (1) of this section, the right to distrain and sell any property owned by the delinquent taxpayer, including that on which the lien

1 provided in KRS 134.420 has attached. Any property sold under distraint
 2 proceedings shall be sold in the same manner as provided in KRS 131.500, except
 3 that the exercise of the power shall be vested in the county attorney.

4 (4) Any property while owned by a delinquent taxpayer shall be subject to foreclosure
 5 or execution in satisfaction of a judgment pursuant to an action in rem or an action
 6 in personam, or both, to enforce the obligation.

7 (5) If property is sold pursuant to a judgment of foreclosure, it shall be appraised
 8 pursuant to the provisions of KRS 426.520, and there shall be a right of redemption
 9 as provided in KRS 426.530. If there is no purchaser at a foreclosure sale, the
 10 master commissioner shall make a deed to the person or persons shown by record to
 11 be the owner of the certificate or certificates of delinquency, and that person or
 12 persons shall have a pro rata interest in accordance with the amount of their
 13 respective certificates.

14 (6) The department may provide to a third-party purchaser factual information
 15 related to the owner or lessee of the coal, oil, gas reserves, or any other mineral
 16 resources assessed under KRS 132.820(1) pursuant to an order entered in a
 17 foreclosure action involving a certificate of delinquency for unmined coal, oil,
 18 gas, or any other mineral resources. The department may promulgate an
 19 administrative regulation establishing a fee schedule for the provision of the
 20 information described in this subsection. Any fee imposed shall not exceed the
 21 greater of the actual cost of providing the information or ten dollars (\$10).

22 ➔Section 11. KRS 134.551 is amended to read as follows:

23 (1) If a certificate of delinquency or personal property certificate of delinquency held by
 24 an individual is declared void by a court of competent jurisdiction because of the
 25 irregularity of taxing officers, the amount for which the certificate was issued shall
 26 be refunded by the state, county, and taxing districts on a pro rata basis. If a school
 27 district or county is unable to make the refund currently when requested, it shall be

given preference from the next year's revenue. The application for refund must be made within one (1) year after the judgment. The property covered by the void certificate shall be assessed immediately as omitted property and the tax bill shall be payable as soon as prepared.

(2) (a) If a certificate of delinquency held by a third-party purchaser who paid the certificate of delinquency to the county clerk:

1. Is unenforceable because:

a. It is a duplicate certificate of delinquency;~~[-Because]~~

b. The tax liability represented by the certificate of delinquency was satisfied prior to the purchase of the certificate of delinquency;~~[-or because]~~

c. All or a portion of the certificate of delinquency is exonerated; or

d. The property to which the certificate of delinquency applies was not subject to taxes as a matter of law as certified by the property valuation administrator; or

2. Should not have been sold because, on the date of the annual sale, the certificate of delinquency met the requirements for inclusion on the protected list pursuant to subsection (10) of Section 9 of this Act and it:

a. Was included on the protected list;

b. Was mistakenly left off the protected list; or

c. Became eligible for inclusion on the protected list between the date the protected list was submitted and the date of sale;

the third-party purchaser may apply to the county clerk for a refund.

(b) The application for refund filed with the county clerk shall include written proof that one (1) of the situations described in paragraph (a) of this subsection exists with regard to the certificate of delinquency for which a

1 refund is sought.

- 2 (c) 1. Upon acceptance and approval of the application for refund, the county
3 clerk shall approve a refund of the amount paid to the county clerk by
4 the third-party purchaser in satisfaction of the certificate of delinquency.
- 5 2. Amounts refunded to the third-party purchaser shall be deducted from
6 amounts in the hands of the county clerk due to the state, county, taxing
7 districts, sheriff, county attorney, and the county clerk on a pro rata
8 basis, if the county clerk has sufficient funds in his or her hands to make
9 the refund.
- 10 3. If the county clerk does not have sufficient funds to make the refund at
11 the time the refund is approved, the county clerk may either:
- 12 a. Retain the approved refund claim in his or her office and make the
13 refund payment as soon as he or she has sufficient funds in his or
14 her hands to make the refund payment; or
- 15 b. Provide a signed letter to the person to whom payment is due,
16 which includes the amount due from each taxing jurisdiction or fee
17 office, and which directs each taxing jurisdiction or fee official to
18 pay to the person the amount due and owing from that taxing
19 jurisdiction or fee official as reflected in the letter.
- 20 4. Upon the making of a refund, to a third-party purchaser, the county
21 clerk shall issue and file a release of the lien on the property assessed
22 for taxes as provided in this subparagraph. The release shall be linked
23 to the encumbrance in the county clerk's indexing system.
- 24 a. The department shall prepare a release form to be used by the
25 county clerk when a refund is paid under this paragraph. The
26 form shall include, at a minimum, the following:
- 27 i. The name and address of the taxpayer;

1 ii. The name and address of the third-party purchaser;

2 iii. The book and page number of the third-party purchaser's
 3 lis pendens filing;

4 iv. The property address;

5 v. The applicable tax year; and

6 vi. The map identification number or tax bill number.

7 b. The release form shall be signed by the government official
 8 responsible for making the correction.

9 c. In addition to the signed release form, information filed by the
 10 county clerk shall include a copy of the documentation provided
 11 by the government official and a copy of the refund check or
 12 letter of refund authorization issued to the third-party purchaser.
 13 The county clerk shall record and file this information without a
 14 fee.

15 d. The county clerk shall also make any necessary corrections to
 16 the tax records within the office of the county clerk.

17 e. The county clerk shall return the release document to the
 18 taxpayer and shall provide a copy of the release document to the
 19 third-party purchaser.

20 (d) If the county clerk denies the application for refund, or the property
 21 valuation administrator fails to certify that property was not subject to taxes
 22 as a matter of law, the third-party purchaser may appeal the decision of the
 23 county clerk or the property valuation administrator to the department. The
 24 department shall promulgate administrative regulations in accordance with
 25 KRS Chapter 13A to establish the process for appeal in accordance with
 26 KRS Chapter 13B~~[The county clerk shall document his or her records to~~
 27 ~~reflect the action taken in response to an approved refund].~~

~~[(d) Any third party purchaser who receives a refund pursuant to this section shall release any liens on the property for which the refund was received within thirty (30) days of receiving the refund. Failure to release the lien shall subject the third party purchaser to all of the remedies provided in KRS 382.365.]~~

➔Section 12. KRS 134.990 is amended to read as follows:

- (1) Any sheriff who fails to make his or her annual settlement available as required by KRS 134.192, or who fails to remit any amounts which are due to the taxing districts as required by law, shall be subject to indictment in his or her county of residence, and upon conviction shall be fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000).
- (2) Any sheriff who violates KRS 134.160(5) shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense.
- (3) Any sheriff who fails to maintain accurate records of ad valorem taxes collected, or who fails to collect taxes due that were collectable shall be held liable on his or her bond for the amount of the tax, penalties, interest, and costs due, plus a thirty percent (30%) penalty thereon. Action shall be brought in the Circuit Court of the county in which the tax is due, on motion of the county attorney or department on behalf of the state. All actions shall be prosecuted by the county attorney, who shall be entitled to retain the penalty recovered for services rendered if all amounts otherwise due are recovered and paid to the taxing jurisdictions entitled to receive those amounts.
- (4) Any outgoing sheriff who fails for ten (10) days to comply with KRS 134.215 shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), and be liable on his or her bond for any default.
- (5) In addition to the penalty imposed by KRS 134.191, any sheriff who fails to report as required in KRS 134.191 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

1 (6) Any person who is required to register with the department pursuant to KRS
 2 134.129 who fails to register shall be fined not less than ten dollars (\$10) or more
 3 than five hundred dollars (\$500) for each certificate of delinquency purchased while
 4 the person was not registered but should have been.

5 (7) Any person who willfully fails to comply with any administrative regulation
 6 promulgated under KRS 134.547(3) shall be fined not less than twenty dollars (\$20)
 7 nor more than one thousand dollars (\$1,000).

8 (8) Any county attorney who contracts with the department to collect certificates of
 9 delinquency and personal property certificates of delinquency who fails to send the
 10 notices required by KRS 134.504(4) shall be fined not less than ten dollars (\$10)
 11 nor more than one hundred dollars (\$100) for each notice that he or she fails to
 12 send.

13 (9) Any sheriff who fails to keep his or her books in an intelligible manner and
 14 according to the form prescribed by the department, or to make the entries required
 15 by law, shall be fined not less than fifty dollars (\$50) nor more than two hundred
 16 dollars (\$200) for each offense.

17 (10) Any third-party~~[-]~~purchaser who attempts to circumvent the fairness of the sale
 18 process established pursuant to KRS 134.128 by~~[-]~~establishing multiple entities or~~[-]~~
 19 involving multiple **entities or** individuals in the bidding process **at the annual sale:**

20 **(a) Shall be guilty of a Class A misdemeanor;**

21 **(b) May have the registration required by KRS 134.129 revoked; and**

22 **(c) May be prohibited from participating in future sales of priority certificates**
 23 **of delinquency.**

24 The county attorney and the Attorney General shall have concurrent jurisdiction for
 25 the investigation and prosecution of offenses under this section.

26 (11) (a) Any third-party~~[-]~~purchaser who knowingly:

27 1. Demands costs or fees in excess of those permitted by KRS 134.452;

1 2. Fails to send notices as required by KRS 134.490, or to include in the
2 notices the information required by KRS 134.490; or

3 3. Fails to provide revised contact information as required by KRS
4 134.490;

5 shall be subject to a fine of not less than one hundred dollars (\$100) nor more
6 than two hundred fifty dollars (\$250) for the first offense, and for the second
7 and any subsequent offenses, shall be fined not less than two hundred fifty
8 dollars (\$250) nor more than five hundred dollars (\$500).

9 (b) As used in this subsection, "knowingly" has the same meaning as in KRS
10 501.020.

11 (12) Any person who fails to do an act required, or does an act forbidden, by any
12 provision of this chapter for which no other penalty is provided shall be fined not
13 less than ten dollars (\$10) nor more than five hundred dollars (\$500).

14 ➔Section 13. KRS 132.180 is amended to read as follows:

15 (1) Any person having custody of distilled spirits in a bonded warehouse or premises on
16 the day as of which the assessment is made shall be liable for all taxes due thereon,
17 together with all interest and penalties that may accrue. Any owner, proprietor, or
18 custodian of such distilled spirits who pays the taxes, interest and penalties on the
19 distilled spirits shall have a lien thereon for the amount paid, with legal interest
20 from day of payment.

21 (2) Taxes on distilled spirits which are subject to the provisions of KRS 132.160(1)(a)
22 shall become due and payable in the manner provided by KRS 134.015~~[134.020]~~,
23 except that taxes due the state shall be paid directly to the Department of Revenue.

24 ➔Section 14. KRS 131.190 is amended to read as follows:

25 (1) (a) No present or former commissioner or employee of the Department of
26 Revenue, present or former member of a county board of assessment appeals,
27 present or former property valuation administrator or employee, present or

former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business.

(b) ~~The~~^[This] prohibition established by paragraph (a) of this subsection does not extend to:

1. Information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws;~~;~~[;] ~~nor does it extend to~~
2. Any matter properly entered upon any assessment record,~~;~~[;] ~~nor does it preclude~~
3. Furnishing any taxpayer or his properly authorized agent with information respecting his own return;
4. Testimony provided by~~;~~[;] ~~Further, this prohibition does not preclude~~ the commissioner or any employee of the Department of Revenue~~;~~[;] ~~from testifying~~ in any court, or the introduction~~;~~[;] ~~from introducing~~ as evidence of returns or reports filed with the department, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws;~~;~~[;]
5. Providing~~;~~[;] ~~The commissioner or the commissioner's designee may provide~~ an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820(1), or owners of surface land under which the unmined minerals lie, factual

1 information about the owner's property derived from third-party returns
 2 filed for that owner's property, under the provisions of KRS 132.820(2),
 3 that is used to determine the owner's assessment. This information shall
 4 be provided to the owner on a confidential basis, and the owner shall be
 5 subject to the penalties provided in KRS 131.990(2). The third-party
 6 filer shall be given prior notice of any disclosure of information to the
 7 owner that was provided by the third-party filer; or

8 **6. Providing to a third-party purchaser pursuant to an order entered in a**
 9 **foreclosure action filed in a court of competent jurisdiction, factual**
 10 **information related to the owner or lessee of coal, oil, gas reserves, or**
 11 **any other mineral resources assessed under KRS 132.820(1). The**
 12 **department may promulgate an administrative regulation establishing**
 13 **a fee schedule for the provision of the information described in this**
 14 **subparagraph. Any fee imposed shall not exceed the greater of the**
 15 **actual cost of providing the information or ten dollars (\$10).**

- 16 (2) The commissioner shall make available any information for official use only and on
 17 a confidential basis to the proper officer, agency, board or commission of this state,
 18 any Kentucky county, any Kentucky city, any other state, or the federal government,
 19 under reciprocal agreements whereby the department shall receive similar or useful
 20 information in return.
- 21 (3) Statistics of tax-paid gasoline gallonage reported monthly to the Department of
 22 Revenue under the gasoline excise tax law may be made public by the department.
- 23 (4) Access to and inspection of information received from the Internal Revenue Service
 24 is for Department of Revenue use only, and is restricted to tax administration
 25 purposes. Notwithstanding the provisions of this section to the contrary, information
 26 received from the Internal Revenue Service shall not be made available to any other
 27 agency of state government, or any county, city, or other state, and shall not be

1 inspected intentionally and without authorization by any present secretary or
 2 employee of the Finance and Administration Cabinet, commissioner or employee of
 3 the Department of Revenue, or any other person.

4 (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil
 5 excise tax requirements of KRS Chapter 137 and statistics of natural gas production
 6 as reported to the Department of Revenue under the natural resources severance tax
 7 requirements of KRS Chapter 143A may be made public by the department by
 8 release to the Environmental and Public Protection Cabinet, Department for Natural
 9 Resources.

10 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
 11 submissions for the 1989 tax year, the department may make public or divulge only
 12 those portions of mine maps submitted by taxpayers to the department pursuant to
 13 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
 14 out parcel areas. These electronic maps shall not be relied upon to determine actual
 15 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
 16 required under KRS Chapters 350 and 352 shall not be construed to constitute land
 17 surveying or boundary surveys as defined by KRS 322.010 and any administrative
 18 regulations promulgated thereto.

19 (7) Notwithstanding any other provision of the Kentucky Revised Statutes, the
 20 department may divulge to the applicable school districts on a confidential basis any
 21 utility gross receipts license tax return information that is necessary to administer
 22 the provisions of KRS 160.613 to 160.617.

23 ➔Section 15. KRS 134.126 is amended to read as follows:

24 (1) (a) The county clerk shall receive and record payments for all certificates of
 25 delinquency and personal property certificates of delinquency filed by the
 26 sheriff pursuant to KRS 134.122.

27 (b) The county clerk may accept payment by any commercially acceptable means.

1 The county clerk may limit the acceptable methods of payment to those that
2 ensure that the payment cannot be reversed or nullified due to insufficient
3 funds.

4 (2) The county clerk shall give a receipt to the person making payment.

5 (3) The county clerk shall report by the tenth day of each month to the department, the
6 county treasurer, the sheriff, and the proper officials of the taxing districts. The
7 governing body of a county may require the county clerk to report and pay on a
8 more frequent basis if necessary for bonding requirements; however, the county
9 clerk shall not be required to report and pay more frequently than weekly.

10 (4) The county clerk shall allocate payments among the various entities entitled to a
11 portion of the payment. The county clerk shall, at the time he or she makes the
12 reports required by subsection (3) of this section:

13 (a) Pay to the department for deposit in the State Treasury all moneys received
14 due the state;

15 (b) Pay to the county treasurer all moneys received due the county;

16 (c) Pay to the authorized officers of the taxing districts the amount due each
17 taxing district; and

18 (d) Pay the amount of fees, costs, commissions, and penalties to the persons,
19 agencies, or parties entitled thereto.

20 (5) (a) Upon full payment of a certificate of delinquency or personal property
21 certificate of delinquency owned by the state, county, and taxing districts, the
22 county clerk shall note on the certificate the name and address of the person
23 making the payment, the amount paid, and any other information the
24 department may require. The clerk shall mark the certificate of delinquency or
25 personal property certificate of delinquency paid in full.

26 (b) If payment in full is made by a person other than the person primarily liable on
27 the certificate, the person making the payment may request that the payment

1 be treated as an assignment. Upon such request, the county clerk shall:

- 2 1. Note the assignment on the certificate of delinquency or personal
- 3 property certificate of delinquency;
- 4 2. Record the encumbrance represented by the certificate of delinquency in
- 5 the same manner as a notice of lis pendens; and
- 6 3. Include as part of the encumbrance recording the information required
- 7 by KRS 134.490(3)~~(d)(e)~~.

8 For recording the assignment and encumbrance, the county clerk shall receive

9 the fee provided in KRS 64.012.

- 10 (c) If a person other than the person primarily liable on the certificate does not
- 11 request the payment to be treated as an assignment, he or she shall be treated
- 12 in the same manner as the person primarily liable on the certificate, and any
- 13 payment made pursuant to this subsection shall not constitute an assignment
- 14 of the certificate. The payor shall not be subrogated to the lien of the state,
- 15 county, and taxing districts as provided in subsection (8) of this section, and
- 16 shall not be considered a third-party purchaser under the provisions of this
- 17 chapter, or a transferee under KRS 134.121.

- 18 (6) After the initial recording of an assignment of a certificate of delinquency or
- 19 personal property certificate of delinquency as provided in subsection (5)(b) of this
- 20 section, all subsequent actions relating to that certificate of delinquency or personal
- 21 property certificate of delinquency, including assignments and releases shall be
- 22 made in accordance with the general laws and procedures governing land records,
- 23 except the additional information required by KRS 134.490(3)~~(d)(e)~~ shall be
- 24 included. The applicable fees established by KRS 64.012 shall apply.

- 25 (7) A certificate of delinquency or personal property certificate of delinquency shall be
- 26 assignable. Failure of an assignee to record the assignment shall render the claim of
- 27 such person to any real estate represented thereby inferior to the rights of other bona

1 fide purchasers, payors, or creditors.

2 (8) Any person other than the person primarily liable on a certificate who:

3 (a) Pays the certificate of delinquency in full, and who requests to the county
4 clerk that the payment be treated as an assignment pursuant to subsection
5 (5)(b) of this section; or

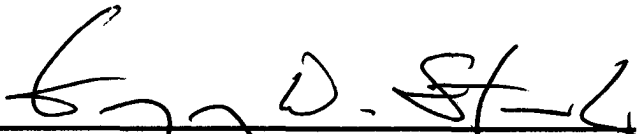
6 (b) Is the assignee of such a person, if the assignment has been recorded as
7 required by this section or KRS 134.127;

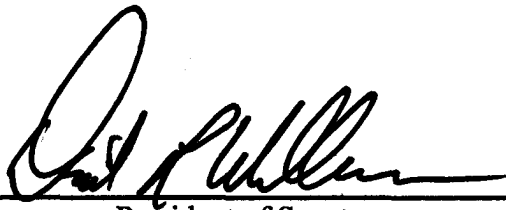
8 shall be subrogated to the lien priority of the state, county, and taxing districts as
9 provided in KRS 134.420, and the amount due may be collectible as provided in
10 KRS 134.546(2).

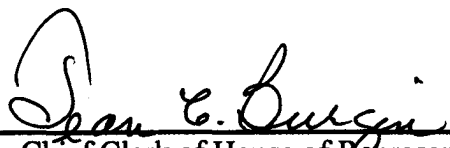
11 (9) As compensation for collection of payments on certificates of delinquency, personal
12 property certificates of delinquency, and other delinquent taxes, and the processing
13 of delinquent property tax payments, the county clerk shall be paid ten percent
14 (10%) of the amount due each taxing unit for each certificate of delinquency,
15 personal property certificate of delinquency, or other delinquent tax claim. The fee
16 shall be added to the amount of the tax claim and shall be paid by the person paying
17 the tax claim.

18 ➔Section 16. Notwithstanding any other provision of the Kentucky Revised
19 Statutes, or the effective date provisions included in 2009 House Bill 262, the sheriff's fee
20 calculation established by Section 2 of this Act shall apply to tax collections made by
21 sheriffs in calendar year 2009.

22 ➔Section 17. Whereas it is necessary for the provisions of this Act to be effective
23 prior to the scheduled sales of certificates of delinquency in 2010, an emergency is
24 declared to exist, and this Act takes effect upon its passage and approval of the Governor
25 or upon its otherwise becoming law.


Speaker-House of Representatives


President of Senate

Attest: 
Chief Clerk of House of Representatives

Approved 
Governor

Date 